S.B. CIVIL MISC. APPEAL NO. 761/2007
(Laxman Singh & ors. Vs. Vivekanand English School & anr.)

Date of Order :: 19th February 2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Manish Pitaliya for the appellants

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For quantification of compensation to be awarded to the parents, wife and two minor children of the vehicular accident victim Rajendra Singh about 28 years of age and said to be earning while working on agriculture and milk vending, in absence of any reliable evidence about the earnings of the deceased, the Tribunal has put an estimate on his monthly income at Rs.3,000/- from milk vending and another Rs.600/- from his contribution to the family-farm and has thereby taken his average income at Rs.3,600/- per month; and after deducting one-third on his personal expenditure has estimated loss of contribution at Rs.2,400/- per month i.e. Rs.28,800/- per annum; and in view of the age of the deceased and his wife and minor children has capitalised by application of multiplier of 18 to allow pecuniary loss at Rs.5,18,400/-. The Tribunal has further proceeded to allow Rs.19,600/- to the wife of the deceased towards loss of love, affection and consortium, Rs.10,000/- to each of the two children for loss of love, affection and guidance of their father and further Rs.10,000/- each to the father and mother of the deceased towards loss of services of their son; and while allowing Rs.2,000/- towards funeral expenses, the Tribunal has made award of compensation in the sum of Rs.5,80,000/- and has allowed interest at the rate of 6% per annum from the date of

filing of claim application. The claimants seek enhancement in this appeal.

Having examined the award in its totality, this Court is of opinion that even the estimate as put by the Tribunal on the income of the deceased appears to be excessive; and if at all the deceased was earning by way of dairy farming or in agriculture, possibility of a part of the income retaining itself to the claimants cannot be ruled out. Then, The Tribunal has not only applied maximum side multiplier of 18 to assess pecuniary loss at Rs.5,18,400/- but has further proceeded to add rather excessive amount towards non-pecuniary loss in total at Rs.59,600/-. The award in question rules out any scope for enhancement.

The appeal fails and is, therefore, dismissed summarily.

MK **(DINESH MAHESHWARI), J.**